PATENT CASE: **JB0976Q US**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Mytych** *et al.*	Examiner: Bao Qun Li
For Patent: **Methods and Reagents for the Detection of Antibodies and Adenovirus**	Group Art Unit: 1648
Serial No.: 09/643,458	
Filed: August 22, 2000	December 20, 2003

Schering-Plough Corporation
Kenilworth, New Jersey 07033

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the restriction mailed on October 20, 2003 for the above-identified application, applicants respond as follows. A response for this restriction requirement was originally due on November 20, 2003. A Petition under 37 C.F.R. § 1.136 to extend the time of response by one month, up to and including December 20, 2003, together with provision for payment of the required petition fee, is enclosed herewith.

In response to the present Restriction Requirement, Applicants elect Group II (Claims 16, 18 and 21-22) and SEQ ID Nos: 9, 12, and 15 with traverse.

Claims 21-27 are pending in the application. The Examiner restricted the claims into three major groups:

Group I drawn to a method for using a flowcell of a sensorchip in a biosensor to detect a presence of an anti-adenovirus antibody (claims 1-3 and 8);

Group II drawn to a method of detecting the presence of anti-adenovirus antibody by contacting a plurality of peptides (claims 16, 18 and 21-22); and

Group III drawn to a method for detecting an antibody capable of binding to ad adenovirus by contacting a single peptide (claims 23-27).

The Examiner advised Applicants to elect a Group as well as three sequences used in the method. The Examiner stated that the sequences that need to be elected are listed in claims 1, 8, 16, 18, 23, 25 as SEQ ID Nos: 1-7 and 9-15.

SEQ ID Nos: 1-7 and SEQ ID NOs: 9-15 are used in the methods to detect antibodies to adenovirus. SEQ ID Nos: 1-7 are amino acid sequences corresponding to the seven unique hypervariable regions (HVR) of adenovirus type 5 (Ad5) hexon. A linker consisting of the amino acid sequence CKGKG, is added at the amino terminus of the SEQ ID NOs: 1-7 to create SEQ ID NOs: 9-15, respectively. Thus, most of the sequences are the same between the two groups. Furthermore, SEQ ID Nos: 1-7 are all from the same protein.

Applicants believe that the sequences are sufficiently related to be examined together without causing undue burden to the Examiner.

According to MPEP §803, there are two criteria for a proper Restriction Requirement:

(1) the invention must be independent or distinct as claimed, and

(2) there must be a serious burden on the examiner if the restriction is not required.

> Moreover,
> if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

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In conclusion, Applicants respectfully request reconsideration and withdrawal of this Restriction Requirement.

If the Examiner has any questions regarding this response, she is encouraged to contact the undersigned.

Respectfully submitted,

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